

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Alpha Ambulance, Inc.)	File No. EB-02-SJ-031
)	NAL/Acct. No. 200232680007
San Juan, Puerto Rico)	FRN 0005-9491-93
)	

MEMORANDUM OPINION AND ORDER

Adopted: May 12, 2003

Released: May 14, 2003

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* (“Order”), we deny a petition for reconsideration of a *Forfeiture Order*¹ issued in this proceeding. The *Forfeiture Order* issued a \$10,000 forfeiture to Alpha Ambulance, Inc. (“Alpha”) for operating radio transmission equipment without Commission authorization in willful violation of Section 301 of the Communications Act of 1934, as amended, (“Act”)² and Section 1.903(a) of the Commission’s Rules (“Rules”).³

II. BACKGROUND

2. On April 23, 2002, the San Juan Office received, from the Commonwealth of Puerto Rico Medical Emergency Services, a complaint of interference affecting the frequency pair 463.100/468.100 MHz. The Commission has assigned these frequencies to the Public Safety Radio Pool and authorized their use solely for communications between medical facilities, vehicles and personnel involving treatment and transport of patients in the rendition or delivery of medical services.⁴ The complaint alleged that Alpha was causing interference to ongoing emergency medical communications. Commission records showed no license issued to Alpha for operation on these frequencies.

3. On May 6, 2002, an agent from the San Juan Office used direction finding techniques to locate radio transmissions on the frequency 468.100 MHz. The agent determined that the source of the transmissions on this frequency was a one-story building located at 1720 Eduardo Conde Avenue. A sign identified the building as the business offices of “Alpha Ambulance.” Using direction finding techniques,

¹ *Alpha Ambulance, Inc.*, 17 FCC Rcd 26105 (Enf. Bur. 2002).

² 47 U.S.C. § 301.

³ 47 C.F.R. § 1.903(a).

⁴ See 47 C.F.R. § 90.20(c)(3) and (d)(76).

the agent also determined that Alpha's ambulances were transmitting on the 463.100/468.100 MHz frequency pair.

4. On May 7, 2002, the agent went to the offices of Alpha and interviewed Ms. Milagros Montero. Ms. Montero stated that she and her daughter owned Alpha and admitted that Alpha operated radio transmission equipment on the 463.100/468.100 MHz frequency pair. When the agent asked to see the FCC license for the radio station, Ms. Montero provided a copy of a license issued to First Aid Ambulance, Inc. ("First Aid") for the frequency pair 463.100/468.100 MHz, call sign KNIG648, which had expired on April 8, 2001. Ms. Montero stated that First Aid had been owned by her ex-husband, his mother and his sister, that First Aid had dissolved about three years ago, and that Alpha had operated the radio equipment since that time. Ms. Montero was unable to produce any authorization for Alpha to operate on the frequency pair 463.100/468.100 MHz.

5. On June 21, 2002, the San Juan Office issued an *NAL* to Alpha for a \$10,000 forfeiture for operating radio transmitting equipment without Commission authorization in willful violation of Section 301 of the Act and Section 1.903(a) of the Rules. In its July 16, 2002, response to the *NAL*, Alpha did not deny the violation. However, Alpha asserted that it cannot afford to pay the proposed \$10,000 forfeiture and submitted tax returns for 1998, 1999 and 2000 and a balance sheet for 2001 in support of this assertion.

6. On December 23, 2002, the Enforcement Bureau released a *Forfeiture Order* issuing a \$10,000 forfeiture to Alpha. After considering the financial information submitted by Alpha, we concluded that its gross revenues are sufficient to enable it to pay a \$10,000 forfeiture.⁵ In its petition for reconsideration of the *Forfeiture Order* filed on January 22, 2003, Alpha repeats its claim that payment of the forfeiture would impose a financial hardship on it and requests that we cancel or reduce the forfeiture or create a payment plan that suits its needs.

III. DISCUSSION

7. Alpha has presented no new evidence or information that would persuade us to reconsider our decision in the *Forfeiture Order* to impose the \$10,000 forfeiture. As we concluded in the *Forfeiture Order*, the financial information submitted by Alpha does not provide a basis for reduction or cancellation of the forfeiture. The \$10,000 forfeiture is a small percentage of Alpha's gross revenues, which have increased in each of the last three years.⁶ However, as explicitly stated in the *Forfeiture Order* and set forth below, Alpha may submit a request for full payment of the forfeiture under an installment plan.

⁵ The Commission has repeatedly held that a company's gross revenues are the best indicator of its ability to pay a forfeiture. See *Long Distance Direct, Inc.*, 15 FCC Rcd 3297, 3305 (2000); *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089 (1991) ("*PJB Communications*").

⁶ See *PJB Communications*, 7 FCC Rcd at 2089 (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, 15 FCC Rcd 8640, 8641 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues); *Afton Communications Corp.*, 7 FCC Rcd 6741 (Com. Car. Bur. 1992) (forfeiture not deemed excessive where it represented approximately 3.9 percent of the violator's gross revenues).

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act, and Sections 0.111, 0.311 and 1.106(j) of the Rules,⁷ the petition for reconsideration filed on January 22, 2003 by Alpha Ambulance, Inc. **IS DENIED**.

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁸ Payment may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should reference NAL/Acct. No. 200232680007 and FRN 0005-9491-93. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

10. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail return receipt requested to Alpha Ambulance, Inc., P.O. Box 19313, Fernandez Juncos Station, Santurce, Puerto Rico 00910.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.106(j).

⁸ 47 U.S.C. § 504(a).

⁹ See 47 C.F.R. § 1.1914.